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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,886	07/03/2001	Robert George Emberty	TUC920010067US1	2182

7590 06/29/2005

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INTELLECTUAL PROPERTY LAW
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EXAMINER

MAGEE, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,886

Applicant(s)

EMBERTY ET AL.

Examiner

Christopher R. Magee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,11 and 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 9 is/are rejected.
- 7) ☒ Claim(s) 2,5-8,10 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RESPONSE TO AMENDMENT

1. The reply filed 1/11/2005 was applied to the following effect: All relevant objections and double patenting rejections are withdrawn as being satisfied.
2. Claims 3, 4, 11 and 15-18 are cancelled.

Terminal Disclaimer

3. The terminal disclaimer filed on 01/11/2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of 6,537,013 B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being obvious over Albrecht et al. (hereinafter Albrecht) (US 6,826,004) in view of Masanori (JP 06-068565).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the

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inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

- Regarding claims 1 and 9, Albrecht discloses a system for interfacing with and handling disk drives in an automated library having a drawer with a drawer connector, the apparatus comprising:

- a disk drive carrier having a disk drive mounted thereto, a backplane connector adapted to interconnect with the drawer connector, and an interface connector, wherein the disk drive carrier is adapted to be inserted into the drawer [col. 13, lines 21-33];

- a picking tool having securing means for securing the disk drive carrier to the picking tool [299], and interface means [col. 13, lines 34-45] for interfacing with the interface connector of the disk drive carrier; and

- control means for controlling the picking tool and communicating information with the disk drive through both the backplane connector via the drawer connector, and through the interface connector via the interface means, such that the picking tool is adapted to remove the

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disk drive carrier from the drawer, transport the disk drive carrier, and place the disk drive carrier in the drawer [col. 13, lines 45-58].

Albrecht does not show the interface connector and the interface means utilize optical service interfaces utilizing matched pairs of LEDs and phototransistors.

Masanori teaches the use of light emitting devices and photo detectors as interface communications in order to move a disc carriage quickly with high accuracy [Masanori English translation, sections 0013 to 0015].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disk drive carrier of Albrecht with the interface means as taught by Masanori.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disk drive carrier of Albrecht with the interface means as taught by Masanori in order to reduce the operating time of a disk drive library. The addition of the LEDs and phototransistors allow the disk carrier to move with quickness and sufficient precision [Masanori English translation, sections 0007 to 0008].

Allowable Subject Matter

5. Claims 2, 5-8, 10 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is annotated on PTO-892.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (571) 272-7592. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher R. Magee
Patent Examiner
Art Unit 2653


GEORGE J. LETSCHER
PRIMARY EXAMINER

June 26, 2005
crm